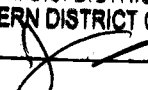


FILED

APR 25 2016

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY  DEPUTY

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISIONYOLANDA SALDIVAR #733126
Plaintiff's Name and ID NumberMOUNTAIN VIEW UNIT
Place of ConfinementCASE NO. **W16CA095**
(Clerk will assign the number)

v.

WILLIAM STEPHENS, DIRECTOR, P.O. BOX 99, HUNTSVILLE, TEXAS 77002
Defendant's Name and Address
MELOYDE NELSON, WARDEN, 2305 RANSOM RD., GATESVILLE, TEXAS 76528
WHITNEY FRANKS, ASST. WARDEN, 2305 RANSOM RD., GATESVILLE, TEXAS 76528
Defendant's Name and AddressUTMB, CONTRACTOR, P.O. BOX 99, HUNTSVILLE, TEXAS 77002
Defendant's Name and Address
(DO NOT USE "ET AL.")**INSTRUCTIONS - READ CAREFULLY****NOTICE:****Your complaint is subject to dismissal unless it conforms to these instructions and this form.**

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

FILING FEE AND IN FORMA PAUPERIS (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of \$400.00.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

- A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? XX YES NO
- B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)
 1. Approximate date of filing lawsuit: JULY, 2009
 2. Parties to previous lawsuit:

Plaintiff(s) YOLANDA SALDIVAR

Defendant(s) WARDEN OCTAVIA BLACK
 3. Court: (If federal, name the district; if state, name the county.) WESTERN
 4. Cause number: UNKNOWN
 5. Name of judge to whom case was assigned: JUDGE SMITH
 6. Disposition: (Was the case dismissed, appealed, still pending?) DISMISSED
 7. Approximate date of disposition: MARCH, 2010

II. PLACE OF PRESENT CONFINEMENT: MOUNTAIN VIEW UNIT

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure? XX YES NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: YOLANDA SALDIVAR, TDCJ #733126

MOUNTAIN VIEW UNIT, 2305 RANSOM RD.

GATESVILLE, TEXAS 76528

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: WILLIAM STEPHENS, DIRECTOR, P.O. BOX 99,

HUNTSVILLE, TEXAS 77002

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

HE FAILED TO TAKE ACTION ON PRISON OFFICIALS WHO ABUSED THEIR POWER.

Defendant #2: MELODYE NELSON, WARDEN MOUNTAIN VIEW UNIT

2305 RANSOM RD., GATESVILLE, TEXAS 76528

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

SHE FAILED TO SECURE A SAFE CELL, A PRECURSOR THAT CAUSED THE PLAINTIFF TO
HAVE A HEAD INJURY.

Defendant #3: WHITNEY FRANKS, ASSISTANT WARDEN MOUNTAIN VIEW UNIT

2305 RANSOM RD., GATESVILLE, TEXAS 76528

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

SHE FAILED TO SECURE A SAFE CELL, A PRECURSOR THAT CAUSED THE PLAINTIFF TO
HAVE A HEAD INJURY.

Defendant #4: UNIVERSITY OF MARY H. BAYLOR ("UTMB") CONTRACTOR

P.O. BOX 99, HUNTSVILLE, TEXAS 77002

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

FAILED TO PROVIDE MEDICAL CARE TO THE PLAINTIFF'S POST HEAD INJURY.

Defendant #5: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

THE PLAINTIFF WAS ASSIGNED TO AN UNSAFE CELL WHICH INCLUDED A TOP BUNK BED WITH RUNGS THAT THE PLAINTIFF KNEW AND HAD REPORTED TO PRISON OFFICIALS THAT SHE WOULD AND DID HAVE DIFFICULTY CLIMBING UP AND DOWN. PRISON OFFICIALS REFUSED TO LISTEN AND ON MAY 26, 2015, SHE FELL HITTING HER RIGHT SIDE OF HER HEAD, HIP AND ANKLE SUSTAINING A HEMATOMA TO HER HEAD. SHE COMPLAINED OF HEADACHES, FEELING OFF-BALANCED AND NAUSEA. SHE WAS DENIED MEDICAL TREATMENT POST HEAD INJURY BY A MEDICAL PHYSICIAN BECAUSE MEDICAL PERSONNEL "ADMITTED" THEY HAD NO PROVIDERS AVAILABLE. THE PLAINTIFF WAS NOT SEEN BY A PHYSICIAN UNTIL AFTER 10 DAYS POST HEAD INJURY WHERE A CONCUSSION WAS CONFIRMED BY E.R. DOCTORS AFTER A CT SCAN. INTRAVENOUS MEDICATIONS GIVEN.

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

THAT THIS COURT GRANT RELIEF TO THE PLAINTIFF OF \$250,000.00 FOR COMPENSATORY DAMAGES AND \$250,000.00 FOR PUNITIVE DAMAGES AND/OR ANY ADDITIONAL RELIEF THIS COURT DEEMS JUST, PROPER AND EQUITABLE.

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

YOLANDA SALDIVAR

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

733126

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? ☐ YES ☒ NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): _____

2. Case number: _____

3. Approximate date sanctions were imposed: _____

4. Have the sanctions been lifted or otherwise satisfied? ☐ YES ☐ NO

- C. Has any court ever warned or notified you that sanctions could be imposed? _____ YES ~~XX~~ NO
- D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)
1. Court that issued warning (if federal, give the district and division): _____
 2. Case number: _____
 3. Approximate date warning was issued: _____

Executed on: _____
DATE

YOLANDA SALDIVAR
Yolanda Saldivar
(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this _____ day of _____, 20____
(Day) (month) (year)

YOLANDA SALDIVAR
Yolanda Saldivar
(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.

April 19, 2016

United States District Court
Western District of Texas
Waco Division
800 Franklin Ave.
Room 380
Waco, Texas 76701

RECEIVED
APR 25 2016
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____ DEPUTY CLERK

Re: Plaintiff's Civil Rights Complaint

W16CA095

Dear Sirs:

Enclosed please find Plaintiff's Civil Rights complaint and Motion for Leave of Court to file a memorandum in support of Plaintiff's Civil Rights complaint. In addition, please find Plaintiff's application to Proceed IN FORMA PAUPERIS with the inmate account certificate. Please present these to the Court.

Thank you for your assistance in this matter.

Respectfully Submitted,



Yolanda Saldivar

TDCJ #733126

Mountain View Unit

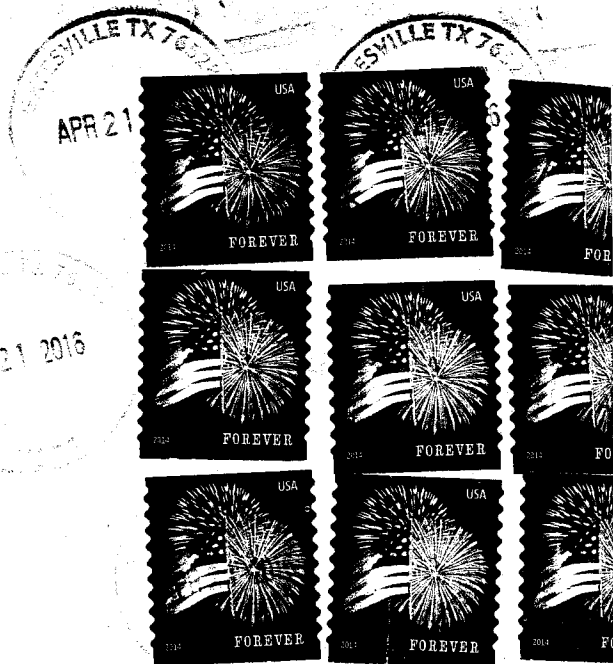
2305 Ransom Rd.

Gatesville, Texas 76528

YOLANDA SALDIVAR
Mountain View Unit
2305 Ransom Rd.
Gatesville, Tx. 76528

APR 21 2016

APR 21 2016



United States District Court
Western District of Texas
Waco Division
800 Franklin Ave.
Room 380
Waco, Texas 76701